IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 6363 of 1989

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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JAYANTIBHAI PATEL SON OF ISHWARBHAI MOTIBHAI PATEL - Petitioner(s)

Versus

PATEL RATILAL SHANKARBHAI & 2 - Respondent(s)

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Appearance :

MR DG CHAUHAN for Petitioner(s) : 1, 1.2.1, 1.2.2,1.2.3
None for Respondent(s) : 1,
NOTICE SERVED for Respondent(s) : 2 - 3.

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 27/10/2005

ORAL JUDGMENT

1.In this petition under Article 227 of the Constitution of India, the petitioner has challenged the legality and validity of the interlocutory order passed by the Gujarat Revenue Tribunal dated 9.12.88 passed in Revision Application No.TEN.B.A.1110/84 by which the

learned Tribunal has rejected the application submitted by the petitioner to stay the said proceedings pending final disposal of the Special Civil Application No.4702/85 which was pending at the relevant time with regard to the very land in question.

2. It appears from the record that with regard to one land, the petitioner initiated two proceedings which reached upto the Gujarat Revenue Tribunal, one being Revision Application No. TEN.B.A.781/80 and another being Revision Application No.TEN.B.A.1110/84. It appears that some order came to be passed against the original landlord in Revision Application No. TEN.B.A. 781/80 directing the original landlord to hand over possession of the land to the petitioner which came to be challenged by the original landlord i.e. respondent No.1 herein in Special Civil Application No.4702/85 and at the relevant time, while admitting the said Special Civil Application, the learned Single Judge of this Court stayed the interim order passed by the Gujarat Revenue Tribunal passed in Revision Application No.781/80. It appears that during pendency of the said Special Civil Application, the Revision Application No.TEN.B.A.1110/84 came up for final hearing before the Gujarat Revenue Tribunal and in the said Revision

Application an application was submitted by the petitioner that in view of the pendency of Special Civil Application No.4702/85, further proceedings of Revision Application No.TEN.B.A.1110/84 be stayed but that application came to be dismissed by the Gujarat Revenue Tribunal by its order dated 9.12.88 and it is stated therein that the final order that may be passed in Revision Application No. TEN.B.A.1110/84 would be subject to the ultimate outcome of the present Special Civil Application 4702/85 by order of this Court. Being aggrieved and dissatisfied with the same the petitioner has preferred the present Special Civil Application under Article 227 of the Constitution of India.

3. Shri D.G.Chauhan, learned advocate appearing on behalf of the petitioner-heirs of the original tenant has submitted that now the main Special Civil Application No.4702/85 came to be disposed of by the learned Single Judge of this Court (Coram :Hon'ble Mr. Justice S.K.Keshote,J., as he then was) by its judgment and order dated 16.1.1997 and the proceedings of the Revision Application No.TEN.B.A.781/80 are remanded to the Gujarat Revenue Tribunal and the said Revision Application is at large before the Gujarat Revenue

Tribunal and the same is not decided and disposed of. In that view of the matter, when the Revision Application No.TEN.B.A.781/80 is remanded to the Gujarat Revenue Tribunal by stipulating a condition as to ultimate outcome of the Special Civil Application No.4702/85, in the order of this court, the question of proceeding further with the Revision Application No. TEN.B.A.1110/84 does not arise as the cause in the present Special Civil Application would not survive. Under the circumstances, the present Special Civil Application is disposed of as having become infructuous and the interim relief as granted earlier is vacated forthwith. The Gujarat Revenue Tribunal is directed to decide and dispose of the Revision Application No. TEN.B.A.1110/84 along with the Revision Application No. TEN.B.A.781/80, which are with regard to the very land in question, as early as possible preferably within a period of 6 months from the date of receipt of this order as the original Revision Application is of the year 1980.

4. The present Special Civil Application is disposed of accordingly.

Direct Service is permitted.

(M.R.SHAH, J.)

kdc.